IN THE

Supreme Court of the United States

OCTOBER TERM, 1955

No. 669.

ATLANTIC COAST LINE RAILROAD COMPANY,
a corporation,

Petitioner

v.

WILBUR C. KING, *et al.*, as members of Florida Railroad and Public Utilities Commission, and CITY OF ST. PETERSBURG, FLORIDA, a municipal corporation,

Respondents

PETITIONER'S REPLY TO RESPONDENTS' BRIEF.

We have one short submission to make in reply to the respondents.

At the bottom of page 8 and at the top of page 9 of their brief, they say that the Florida Commission's order is not final because the prime question of cost is one still to be decided. But the cost they are talking about has nothing to do with the ordered removal of the depots. It relates directly and only to the cost and expense of constructing new depots on new sites according to new plans and specifications.

Respondents do not question our assertion that the order for the removal of the existing depots is a *fait accompli.*

If, however, respondents mean expense somehow referable to the removal of the depots, that question should have been determined before removal of the depots was required. It was an essential ingredient of the order. *Atlantic C. L. R. Co.* v. *Wharton*, 207 U. S. 328, 335 (1907).

State of Washington v. *Fairchild*, 224 U. S. 519, 533 (1911) disapproved an order of the State of Washington Railroad Commission, requiring trackage connections, because, for one thing, "there is nothing [in the record] by which to compare the advantage to the public with the expense to the defendant . . ."

And if respondents are nevertheless correct, their submission furnishes another reason why it was wrong for the Florida Commission to order the destruction of the Company's depots without paying any attention to the question of expense or cost.

Respectfully submitted,

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